

Statement of Interest. NTCH, Inc., through its operating subsidiaries (collectively, "NTCH"), is a CMRS provider that currently offers voice-only wireless service in rural and underserved BTAS in Colorado, Idaho, Tennessee and Alabama. NTCH is also licensed to provide service in California and Arizona, but has not yet commercially launched its service in those markets.

NTCH is a privately held company formed in July 1999 after its principal, Glenn Ishihara, successfully bid on nine (9) small rural PCS licenses in Auction 22. NTCH offers CMRS under the brand name "Clear Talk" and the registered service mark "Wireless Made Simple."

NTCH presently serves 25,000 customers and is adding between 1,500 and 3,000 customers per month. NTCH offers its customers landline-replacement quality service and advanced features for an average monthly bill of \$40. NTCH generally offers a flat rate calling plan with unlimited local minutes. NTCH has 137 cell sites in service, and has constructed over 175 collocated towers in rural and underserved areas. NTCH has pushed service out to rural customers with poor cellular coverage by constructing sites required for landline replacement quality PCS service. NTCH generally provides local switching. NTCH provides local customer care for its customers, which, among other things, creates local jobs.

Notwithstanding NTCH's efforts to overcome various obstacles and provide quality, low-cost service to customers in rural, underserved areas, NTCH struggles to break even or turn a profit on the provision of wireless service, even after investing tens of millions of dollars. NTCH does not take issue with the business realities of competition, so long as such competition occurs on a relatively level playing field.

Definition of "Rural Areas." From an economic perspective, it could be argued that rural areas can be defined by a lack of availability of services in general. For example, despite the fact that El Centro, California has a population of approximately 40,000, other services (e.g., health services, higher education, Internet access, and cultural institutions such as museums) are either not available at all or are available at a much lower standard than in neighboring urban areas such as San Diego, California.

Population density. Population density figures can be misleading. For example, San Diego County, California has a population of 2.8 million and an area of 4,200 square miles. Imperial County, California has a population of 142,000 and an area of 4,175 square miles. San Diego = 3D 666 people per square mile. Imperial County = 3D 34 people per square mile. However, county population densities can be misleading as exemplified by San Bernardino County, California, which has an urban core but also has enormous land area.

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that is sparsely populated. San Bernardino County has 85 people per square
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mile. An alternative way to evaluate "rural" areas is ask whether or not
the bulk of the population in a given area can commute to work in the
closest urban area. If not, then perhaps those areas should be considered
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rural in nature.

Inasmuch as there have been programs such as "e-rate" and other federal
programs that have been designed to provide money or incentive to "bridge
the digital divide," it could be argued that any area in which schools or
households have less access to these services should be considered rural
in
nature. The primary purpose of these programs is to provide equal
educational opportunity to students that live in "rural" areas.

NTCH believes that Commission involvement is needed to ensure a relatively
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level playing field in terms of economic opportunity. For example, a RBOC
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has chosen not to deploy DSL service in Imperial County, California. The
local cable franchisee has not deployed cable Internet access in Imperial
County for a variety of reasons. A large, national wireless carrier (AT&
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Wireless) has chosen not to deploy PCS services in Imperial County. The
fact that these companies, and many others, have deemed that it is not in
their best interests to make an investment in this particular area could
indicate that they consider these types of areas to be "rural" in nature
and
therefore not economically attractive -- or viable. The point is that if
service providers choose not to make the investment in a rural area, then
their perception of the marketplace becomes the reality of the marketplace.
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NTCH believes that if the cost per subscriber in terms of infrastructure
and
network costs for rural populations versus metro populations were calculated
and compared, then such a cost analysis would show that it costs
significantly more to provide service to rural customers than to urban
customers. Large carriers know this too, and behave accordingly.
Commission relief in the form of rural/urban differentiations is therefore
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appropriate.

Performance Requirements. NTCH recognizes that performance requirements
of
some kind are necessary to insure that carriers build-out markets and offer
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services to customers in these markets. Performance requirements should
also serve to deter companies from holding licenses for speculation.
However, because of economic factors, perhaps most notably the back-haul
problem, performance requirements can have serious detrimental effects on
rural carriers.

Geographic Service Areas. NTCH believes that smaller geographic license areas may not be an appropriate solution to the issues facing rural carriers, especially the issue of data transport (backhaul) charges (as discussed in a later section). In rural areas, it is commonplace for people to live greater distances from population centers. For example, in Imperial County, California, it is not unusual for people to live 50 or 60 miles from the population centers of El Centro or Calexico. If there were several license holders in this county, none would have the population base from which to draw enough subscribers to support the service. Another example can be found in Midland and Odessa in Texas. Midland and Odessa are 5 or 10 miles apart and are in different BTAs. The Odessa BTA covers thousands of square miles. The Midland BTA is probably less than 100 square miles.

Market Valuation Via Auction. The high cost of licenses suggests some flaws in the auction process itself. Although the system is designed to have bidders determine the value of licenses, the process is in fact skewed because of large companies disguising themselves as small or disadvantaged companies participating in the C Block auctions to gain spectrum. A fall out effect of this phenomenon is that small companies then bid (and overbid) on licenses based on the notion that a large carrier will eventually purchase the licenses post-auction. In effect, the auction system is skewed not towards providing competition on a level playing field, but is instead skewed towards large carrier domination, either sooner or later.

With respect to auctions, NTCH also believes that the Commission needs to ensure that its policies and practices do not tie up rural carriers' capital that could otherwise be put to use in building out rural networks and deploying services to rural customers.

NTCH believes that in many ways the FCC has essentially orphaned rural entrepreneurs via Commission actions that tie up C-block spectrum while allowing rural fronts for large companies to acquire other blocks of entrepreneurial spectrum. It follows that that there will not be a path for a group of real entrepreneurs to band together to compete regionally or nationally with the national carriers. For this reason, NTCH believes that the FCC must become especially vigilant to protect the existing entrepreneurs' ability to compete in their local areas.

One potential solution to the dominance of large carriers over true entrepreneurs is for the Commission to require that large carriers must account separately for their rural operations and must price them to make a

profit with a limited amount of loss months when starting service in an area.

A related problem confronting entrepreneurial carriers is the large carriers

' barrage of often misleading advertising. NTCH believes that the Commission could affect measures to combat misleading advertising. For example, the Commission could require certain factual disclosures in carriers' advertisements, such as the average amount that their customers actually pay on any given plan they are plugging. A leading consumer magazine, for instance, reported that a national carrier's \$50 family plan

may actually cost as much as \$500. The Commission could also require disclosure of the average amount or percentage of their customers' minutes

that are actually long distance or roaming. The Commission could also require disclosures in reasonable font sizes; e.g., carriers could be allowed to only advertise anytime minutes in their advertisements except for

small print and could be required to state the highest per minute rate in at

least the same font size as anytime minute or pricing claims.

NTCH believes that the Commission should allow successful bidders in Auction

35 the opportunity to opt out. After recognizing that licenses were overvalued (overbid) in Auction 35, the Commission allowed large companies

to opt out after only paying a deposit for licenses. However, the Commission provided no relief to those bidders who bought and paid for their

Auction 35 licenses. As detailed in other carriers' filings, the Commission

clearly explained the conditions of Auction 35 to all bidders, yet the Commission ultimately allowed a select group to be relieved of all Auction

35 obligations after-the-fact. The Commission's selective relief has prejudiced small carriers who are now stuck with licenses that are - by the

Commission's own admission - overvalued. This overvaluation has in turn deprived rural carriers of much-needed capital and has further frightened the capital markets.

NTCH strongly believes that the Commission should allow a carrier to pull or

hibernate spectrum if the carrier is sharing a network with another carrier

in a rural area. Allowing carriers to do this would facilitate network sharing and ensure greater competition, better coverage, and a better, broader deployment and choice of services that benefit consumers. NTCH believes that rural carriers should be allowed to enter into network sharing

arrangements whereby spectrum is pooled and redundant buildout requirements

are eliminated. NTCH believes that the economics of small rural markets may

simply be insufficient to support extensive multi-carrier competition.

Current State of Rural Wireless. In each rural area where NTCH has built communications sites, deployed networks and launched commercial services, the overall availability, quality, variety and price of services available to rural customers has generally been appreciably below the standards enjoyed in major metropolitan areas. For example, national wireless carriers may offer service in rural areas via roaming partners. However, the quality of service can only be described as poor. The A and B block carriers typically do have service available. However, it is often analog service or, if along the US/Mexico border, the service may be digital. Because other carriers are in the early stages of developing their licenses in these areas, have not yet begun, the incumbents see no reason to spend money on upgrading and improving their systems.

Obstacles that Exist in Providing Wireless Service to Rural Areas. NTCH believes that data transport (backhaul) costs are a major obstacle in the deployment of new services in rural areas. It does not make economic sense to deploy expensive switching gear in small markets. It does make sense to move network traffic to a switch that is located in a large market. If the data transport costs were reasonable, then NTCH believes that more carriers would make the investment in infrastructure at the tower site - thereby ensuring better quality and quantity of services for rural customers.

Issues and Solutions. NTCH believes the following issues and solutions warrant the Commission's consideration and action.

The data transport fees to the PSTN whose CO's are typically located in major cities and data transport for network backhaul traffic is a huge obstacle to launching new wireless services in rural markets. NTCH believes that oppressive data transport rates for network backhaul and access to the PSTN serve to delay rural carriers' network buildouts and service launches.

Rural carriers like NTCH face the prospect of competing with large national carriers or their affiliates who have been fiscally irresponsible and have cost debt holders billions of dollars. As these carriers restructure and/or file bankruptcy, they reemerge with reduced operating costs and therefore enjoy a competitive advantage vis-à-vis those license holders who have been fiscally responsible. From the perspective of true rural carriers, it appears that the Commission is largely unaware of these dynamics and the ensuing effects on the quality and quantity of services made available to rural customers.

NTCH believes that competition in rural markets is skewed because existin

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Commission policies have allowed many large companies to successfully establish rural fronts; i.e., smaller companies that hold themselves out as

a rural carrier when in fact these smaller companies are backed by large urban and/or national carriers).

NTCH believes that competition in rural markets is skewed because large, urban carriers are able to subsidize their unprofitable rural operations with revenues from dense urban areas. For example, urban carriers are able

to effectively subsidize unfunded mandates such as CALEA and E911. Barri

ng some Commission relief, rural carriers cannot effectively compete because they lack the necessary population densities to distribute the costs for infrastructure - and unfunded mandates - to their customers while still offering service at competitive prices. These unfunded mandates are very damaging to small carriers like NTCH who must try to pay for these mandates

in an environment in which small carriers struggle merely to expand their business to more customers. While NTCH recognizes the importance of these

unfunded mandates, NTCH nonetheless believes that governmental relief should

be provided for rural carriers based upon an adequate showing of market

The existence of large carriers' rural fronts also leaves very few true rural carriers with whom other small companies can team to establish cost-effective networks in rural areas.

Existing policies seem to allow unfair competition from those carriers who

did not pay for their licenses, e.g., Nextel and now MSS.

NTCH believes the competitive landscape has been further skewed by the Commission's forgiveness of debt owed by large companies.

NTCH believes the competitive landscape will be further skewed if the Commission allows unlicensed wireless services. Unlicensed wireless uses may effectively destroy backhaul paths used by licensed wireless carriers. One potential solution: dedicated unlicensed backhaul spectrum for licensed

wireless carriers, subject to appropriate sharing requirements.

The absence of local number portability makes it extremely difficult for rural carriers to compete with urban and/or national carriers. Indeed, NTCH

believes that wireless Local Number Portability should also apply to landline companies to allow wireless carriers to compete effectively towards

servicing customers' primary communications needs. As the Commission is probably aware, local number portability is vital towards allowing customers

choose carriers by voting with their feet -- without the cost and hassle of

switching their telephone number each time that they become dissatisfied with the services of a particular carrier.

The imposition of unfunded mandates (e.g., CALEA, E911, TTY) -- whereby rural carriers are required to meet the same compliance standards as large, urban carriers, irrespective of the significantly different market and cost-spreading realities - makes it extremely difficult for small, rural carriers to remain economically viable - let alone competitive.

NTCH believes that the Commission should allow a carrier to pull or hibernate spectrum if the carrier is sharing a network with another carrier in a rural area. Allowing carriers to do this would facilitate network sharing and ensure greater competition, better coverage, and a better, broader deployment and choice of services that benefit consumers.

Existing policies that allow non-RBOC landlines to deny access to wireless carriers on a commercially reasonable (i.e., competitive) basis also make it extremely difficult for small, rural carriers to remain economically viable and competitive.

Existing policies that allow RBOCs to impose significant charges for transit or "intermediary" traffic (i.e., when rural carriers pass calls through to non-RBOC landlines) also make it extremely difficult for small, rural carriers to remain economically viable and competitive.

NTCH believes that the Commission could enact measures to prevent a host of ways in which incumbent landline carriers prevent effective competition from rural wireless carriers. For example, in order to interconnect to a rural landline carriers network, rural wireless carriers are often required to supply highly-priced end office trunking to different cities within the rural landline carrier's network -- even though the landline carrier could provide a single point of interconnection and even though the landline carrier is already connected to an RBOC or large regional ILEC (the same as the rural wireless carrier) and could therefore simply pass traffic there. Hence, rural wireless carriers are confronted with the choice of two economic evils: either establishing costly end office trunks within a rural landline network or paying transit charges of four cents a minute or more per call to an RBOC or regional ILEC.

Rural wireless carriers also confront the situation whereby landline carriers and/or RBOCs refuse to sell T-1s to wireless carriers at UNE rates. Highly tariffed T-1 rates make it extremely difficult for small, rural carriers to remain economically viable and competitive.

The procedural difficulties associated with obtaining USF support, notwithstanding rural carriers' obligations to contribute to USF, also make it difficult for small, rural carriers to remain economically viable and competitive. USF eligibility rules should be better standardized and should also be revised to ensure that the eligibility review process is not tainted in any way by interested carriers with strong political connections.

NTCH believes that the Commission should consider lifting the spectrum cap allowing large national carriers or incumbent wireless providers with inadequate service to warehouse spectrum to deter competition and/or eliminate small companies' ability to offer practical calling areas.

Conclusion. The 1996 Act was intended to promote competition in the marketplace, which in turn should result in more services at better prices to the consumer. The Act also provides for a level playing field for all competitors. If indeed the Communications Act of 1934 has a statutory mandate to promote the deployment of these services and economic opportunities to rural areas, then Commission relief for rural markets is needed, and quickly. If not relief for rural markets is forthcoming, then rural markets will likely regress to anticompetitive monopolies where customers ultimately pay more for less, i.e., fewer services of lower quality, with slow or no deployment of new services and technologies.

Respectfully Submitted,

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